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FILED JUN 23 2005

By: Robert R. Pivante

4.B. No. 41

A BILL TO BE ENTITLED

AN ACT

relating to the maximum permitted withdrawals and critical period  
management of groundwater in the area regulated by the Edwards  
Aquifer Authority and to the operations and oversight of the  
Edwards Aquifer Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (f), Section 1.11, Chapter 626, Acts  
of the 73rd Legislature, Regular Session, 1993, is amended to read  
as follows:

(f) The authority may own, finance, design, ~~[contract with a  
person who uses water from the aquifer for the authority or that  
person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain  
recharge [water supply] facilities or contract with a person who  
uses water from the aquifer for the authority or that person to own,  
finance, design, construct, operate, or maintain recharge  
facilities. ~~[Management fees or special fees may not be used for  
purchasing or operating these facilities.]~~ For the purpose of this  
subsection, "recharge [water supply] facility" means ~~[includes]~~ a  
dam, reservoir, ~~[treatment facility, transmission facility,]~~ or  
other method of recharge project and associated facilities,  
structures, or works.

SECTION 2. Subsections (a), (c), (f), and (h), Section  
1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session,  
1993, are amended to read as follows:

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(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the hydro-geologic connection and interaction between surface and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) ~~[(6)]~~ protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) ~~[(7)]~~ provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~[(d)]~~ (f) ~~[(f)]~~ and (h) of this section ~~[and Section 1.26 of this article]~~ for the period beginning January 1, 2005 ~~[2008]~~, the amount of permitted withdrawals from the aquifer may not exceed the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005 ~~[400,000 acre-feet of water for each calendar year]~~.

(f) If the level of the aquifer is equal to or greater than 665 ~~[650]~~ feet above mean sea level as measured at well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the

1 aquifer is equal to or greater than 845 feet at well J-27, the  
2 authority may authorize withdrawal from the Uvalde pool, on an  
3 uninterrupted basis, of permitted amounts. In accordance with  
4 Section 1.26 of this article, the [The] authority shall limit the  
5 additional withdrawals to ensure that springflows are not affected  
6 during critical drought conditions.

7 (h) To accomplish the purposes of this article, [~~by June 1,~~  
8 ~~1994,~~] the authority, through a program, shall implement and  
9 enforce water management practices, procedures, and methods to  
10 ensure that, not later than December 31, 2012, the continuous  
11 minimum springflows of the Comal Springs and the San Marcos Springs  
12 are maintained to protect endangered and threatened species to the  
13 extent required by federal law and to achieve other purposes  
14 provided by Subsection (a) of this section and Section 1.26 of this  
15 article. The authority from time to time as appropriate may revise  
16 the practices, procedures, and methods. To meet this requirement,  
17 the authority shall require:

18 (1) phased reductions in the amount of water that may  
19 be used or withdrawn by existing users or categories of other users,  
20 including the authority's critical period management plan  
21 established under Section 1.26 of this article; or

22 (2) implementation of alternative management  
23 practices, procedures, and methods.

24 SECTION 3. Subsection (c), Section 1.15, Chapter 626, Acts  
25 of the 73rd Legislature, Regular Session, 1993, is amended to read  
26 as follows:

27 (c) The authority may issue regular permits, term permits,

1 and emergency permits. Except as provided in Section 1.14(f) and  
2 Section 1.26 of this article, regular permits may not be issued on  
3 an interruptible basis, and the total withdrawals authorized by all  
4 regular permits issued by the authority may not exceed the  
5 limitations provided by Section 1.14 of this article.

6 SECTION 4. Subsection (b), Section 1.19, Chapter 626, Acts  
7 of the 73rd Legislature, Regular Session, 1993, is amended to read  
8 as follows:

9 (b) Withdrawal of water under a term permit must be  
10 consistent with the authority's critical period management plan  
11 established under Section 1.26 of this article. A holder of a term  
12 permit may not withdraw water from the San Antonio pool of the  
13 aquifer unless the level of the aquifer is higher than 675 [665]  
14 feet above sea level, as measured at Well J-17, and the flow at  
15 Comal Springs as determined by Section 1.26(c) of this article is  
16 greater than 350 cfs.

17 SECTION 5. Article 1, Chapter 626, Acts of the 73rd  
18 Legislature, Regular Session, 1993, is amended by amending Section  
19 1.26 and adding Section 1.26A to read as follows:

20 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After  
21 review of the recommendations received, as prescribed in Section  
22 1.26A of this article, the [The] authority shall prepare and  
23 coordinate implementation of a [plan for] critical period  
24 management plan in a manner consistent with Section 1.14(a) of this  
25 article [on or before September 1, 1995]. The mechanisms must:

26 (1) distinguish between discretionary use and  
27 nondiscretionary use;

\_\_\_\_.B. No. \_\_\_\_

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; and

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law.

(b) In this section, "MSL" means the elevation, measured in feet, of the surface of the water in a well above mean sea level, and "CFS" means cubic feet per second. Not later than January 1, 2006, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE SAN ANTONIO POOL

<u>INDEX WELL</u>	<u>COMAL SPRINGS</u>	<u>CRITICAL</u>	<u>WITHDRAWAL</u>
<u>J-17 LEVEL MSL</u>	<u>FLOW CFS</u>	<u>PERIOD STAGE</u>	<u>REDUCTION</u>
			<u>PERCENTAGE</u>
<u>&lt;665</u>	<u>N/A</u>	<u>I</u>	<u>10%</u>
<u>&lt;650</u>	<u>N/A</u>	<u>II</u>	<u>10%</u>
<u>&lt;640</u>	<u>&lt;150</u>	<u>III</u>	<u>10%</u>
<u>&lt;630</u>	<u>&lt;100</u>	<u>IV</u>	<u>10%</u>

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE UVALDE POOL

<u>INDEX WELL J-27 MSL</u>	<u>CRITICAL PERIOD</u>	<u>WITHDRAWAL</u>
<u>FOR UVALDE POOL</u>	<u>STAGE</u>	<u>REDUCTION</u>
		<u>PERCENTAGE</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>II</u>	<u>N/A</u>
<u>&lt;845</u>	<u>III</u>	<u>15%</u>
<u>&lt;842</u>	<u>IV</u>	<u>15%</u>

(c) The authority shall continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. The authority shall track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Beginning September 1, 2005, the authority shall reduce

1 the volume of permitted withdrawals to an annualized rate of  
2 340,000 acre-feet, under critical period Stage IV. After January  
3 1, 2012, the authority shall reduce the volume of permitted  
4 withdrawals to 320,000 acre-feet, under critical period Stage IV.

5 (e) After January 1, 2020, the authority, after review and  
6 consideration of recommendations received by the authority under  
7 Section 1.26A of this article, shall adjust the volume of permitted  
8 withdrawals to an appropriate annualized rate under critical period  
9 Stage IV that is consistent with maintaining the protections  
10 contained in Section 1.14(a) of this article.

11 (f) From time to time, the authority by rule may amend the  
12 withdrawal reduction criteria of the authority's critical period  
13 management plan as set forth in Subsections (b), (c), and (e) of  
14 this section, after review and consideration of the recommendations  
15 from the Environmental Flows Commission, or the Texas Water  
16 Development Board if the Environmental Flows Commission is not  
17 established, the Edwards Aquifer area expert science team, and the  
18 Edwards Aquifer Area Stakeholders Committee, as prescribed in  
19 Section 1.26A of this article. The amended plan must be consistent  
20 with Section 1.14(a) of this article.

21 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND  
22 STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental  
23 Flows Commission, as established under Section 11.0236, Water Code,  
24 or the Texas Water Development Board if the Environmental Flows  
25 Commission is not established, shall appoint a 15-member Edwards  
26 Aquifer Area Stakeholders Committee not later than January 1, 2006.  
27 The composition of the committee will be as follows:

1           (1) five holders of municipal permits issued by the  
2 authority;

3           (2) two holders of irrigation permits issued by the  
4 authority;

5           (3) three holders of industrial permits issued by the  
6 authority;

7           (4) four downstream water rights holders in the  
8 Guadalupe River Basin; and

9           (5) one representative of a public interest group  
10 related to instream flows in the Guadalupe River Basin and bay and  
11 estuary inflows from the Guadalupe River.

12       (b) The Edwards Aquifer Area Stakeholders Committee shall  
13 appoint a seven-member Edwards Aquifer area expert science team not  
14 later than April 30, 2006. The expert science team must be composed  
15 of technical experts with special expertise regarding the Edwards  
16 Aquifer system, spring flows, or the development of withdrawal  
17 limitations. Chapter 2110, Government Code, does not apply to the  
18 size, composition, or duration of the expert science team. A member  
19 of the Texas Environmental Flows science advisory committee, or a  
20 designee of the Texas Water Development Board if the Environmental  
21 Flows Commission is not established in Section 11.02361, Water  
22 Code, shall serve as liaison to the Edwards Aquifer area expert  
23 science team.

24       (c) The expert science team shall develop an analysis of  
25 spring discharge rates and aquifer levels as a function of  
26 withdrawal levels. Based upon this analysis and the required  
27 elements to be considered by the authority in Section 1.14 of this



1 article, the Edwards Aquifer area expert science team shall,  
2 through a collaborative process designed to achieve consensus,  
3 create recommendations for withdrawal reduction levels and stages  
4 for critical period management including, if appropriate,  
5 establishing separate and different withdrawal reduction levels  
6 and stages for critical period management rules for different pools  
7 of the aquifer and submit them to the Edwards Aquifer Area  
8 Stakeholders Committee, the Environmental Flows Commission or the  
9 Texas Water Development Board if the Environmental Flows Commission  
10 is not established, and the authority. The initial recommendations  
11 must be completed and submitted no later than September 30, 2006.

12 (d) In developing its recommendations, the Edwards Aquifer  
13 area expert science team must consider all reasonably available  
14 science, including any Edwards Aquifer specific studies, and the  
15 recommendations must be based solely on the best science available.  
16 The Edwards Aquifer Area Stakeholders Committee may not change the  
17 recommendations of the Edwards Aquifer area expert science team  
18 regarding the withdrawal limitations appropriate to achieve the  
19 purposes of Section 1.14 of this article.

20 (e) The Edwards Aquifer Area Stakeholders Committee shall  
21 review the withdrawal limitation and critical period management  
22 recommendations submitted by the expert science team and shall  
23 consider them in conjunction with other factors, including the  
24 present and future needs for water for other uses related to water  
25 supply planning in the Edwards Aquifer area and the required  
26 elements to be considered by the authority in Section 1.14 of this  
27 article. The stakeholders committee shall develop recommendations

\_\_\_\_.B. No. \_\_\_\_

1 regarding a critical period management plan and submit its  
2 recommendations to the authority and to the Environmental Flows  
3 Commission or the Texas Water Development Board if the  
4 Environmental Flows Commission is not established. In developing  
5 its recommendations, the stakeholders committee shall operate on a  
6 consensus basis to the maximum extent possible. The initial  
7 recommendations must be completed and submitted no later than  
8 October 31, 2006.

9 (f) The Environmental Flows Commission or the Texas Water  
10 Development Board if the Environmental Flows Commission is not  
11 established shall submit to the authority its comments on and  
12 recommendations regarding the Edwards Aquifer area expert science  
13 team's recommended withdrawal reduction levels and stages for  
14 critical period management needed to maintain target spring  
15 discharge and aquifer levels. The withdrawal reduction  
16 recommendations shall be based upon a combination of spring  
17 discharge rates of the San Marcos and Comal Springs and levels at  
18 the J-17 and J-27 wells.

19 (g) The Edwards Aquifer area expert science team, Edwards  
20 Aquifer Area Stakeholders Committee, and the Environmental Flows  
21 Commission or the Texas Water Development Board if the  
22 Environmental Flows Commission is not established shall submit  
23 recommendations to the authority for use in developing its rules  
24 relative to establishing the critical period management plan.

25 (h) Where reasonably practicable, meetings of the Edwards  
26 Aquifer area expert science team and Edwards Aquifer Area  
27 Stakeholders Committee must be open to the public.

1       (i) In recognition of the importance of critical period  
2 management to adapt to changed conditions or information, after  
3 submitting its recommendations regarding withdrawal limitations  
4 and strategies to meet the spring flow needs to the authority, the  
5 stakeholders committee, with the assistance of the expert science  
6 team, shall prepare and submit to the Environmental Flows  
7 Commission or the Texas Water Development Board if the  
8 Environmental Flows Commission is not established a work plan. The  
9 work plan must:

10           (1) establish a periodic review of the critical period  
11 management plan, to occur at least once every five years;

12           (2) prescribe specific monitoring, studies, and  
13 activities; and

14           (3) establish a schedule for continuing the validation  
15 or refinement of the critical period management plan adopted by the  
16 authority, and the strategies to achieve the plan.

17       (j) To assist the Environmental Flows Commission or the  
18 Texas Water Development Board if the Environmental Flows Commission  
19 is not established to assess the extent to which the  
20 recommendations of the Edwards Aquifer area expert science team are  
21 considered and implemented, the authority shall provide written  
22 reports to the Environmental Flows Commission or the Texas Water  
23 Development Board if the Environmental Flows Commission is not  
24 established, at intervals determined by the Environmental Flows  
25 Commission or the Texas Water Development Board if the flows  
26 commission is not established, that describe:

27           (1) the actions taken in response to each

1 recommendation; and

2 (2) for each recommendation not implemented, the  
3 reason it was not implemented.

4 SECTION 6. Subsections (b) and (i), Section 1.29, Section  
5 626, Acts of the 73rd Legislature, Regular Session, 1993, are  
6 amended to read as follows:

7 (b) The authority shall assess equitable aquifer management  
8 fees based on aquifer use under the water management plan to finance  
9 its administrative expenses and programs authorized under this  
10 article. Each water district governed by Chapter 36 [52], Water  
11 Code, that is within the authority's boundaries may contract with  
12 the authority to pay expenses of the authority through taxes in lieu  
13 of user fees to be paid by water users in the district. The contract  
14 must provide that the district will pay an amount equal to the  
15 amount that the water users in the district would have paid through  
16 user fees. The authority may not collect a total amount of fees and  
17 taxes that is more than is reasonably necessary for the  
18 administration of the authority.

19 (i) The authority shall provide money as necessary, but not  
20 to exceed \$75,000, annually adjusted for changes in the consumer  
21 price index [~~five percent of the money collected under Subsection~~  
22 ~~(d) of this section~~], to finance the South Central Texas Water  
23 Advisory Committee's administrative expenses and programs  
24 authorized under this article.

25 SECTION 7. Chapter 626, Acts of the 73rd Legislature,  
26 Regular Session, 1993, is amended by adding Section 1.29A to read as  
27 follows:

1        Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE.        (a) The  
2        authority shall appoint a budgetary advisory committee no later  
3        than November 30, 2005, to consult and advise the authority on the  
4        following prior to its submission to the board:

5                (1) the issuance of bonds;

6                (2) the authority's annual budget; and

7                (3) the authority's annual audit.

8        (b) Each voting member of the board shall appoint one member  
9        of the budgetary advisory committee.

10        SECTION 8. Subsection (a), Section 1.45, Chapter 626, Acts  
11        of the 73rd Legislature, Regular Session, 1993, is amended to read  
12        as follows:

13        (a) The authority may own, finance, design, construct,  
14        [build or] operate, and maintain recharge dams and associated  
15        facilities, structures, or works in the contributing or recharge  
16        area of the aquifer if the recharge is made to increase the yield of  
17        the aquifer and the recharge project does not impair senior water  
18        rights or vested riparian rights.

19        SECTION 9. The following sections of Chapter 626, Acts of  
20        the 73rd Legislature, Regular Session, 1993, are repealed:

21                (1) Subsections (b) and (d), Section 1.14;

22                (2) Section 1.18;

23                (3) Section 1.21; and

24                (4) Subsections (a), (c), (d), and (h), Section 1.29.

25        SECTION 10. This Act takes effect November 1, 2005.

# HOUSE COMMITTEE REPORT

05 JUL 12 PM 6:36  
HOUSE OF REPRESENTATIVES

1<sup>st</sup> Printing

By: Puente

H.B. No. 41

Substitute the following for H.B. No. 41:

By: Puente

C.S.H.B. No. 41

## A BILL TO BE ENTITLED

### AN ACT

relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain recharge [water supply] facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge [water supply] facility" means ~~[includes]~~ a dam, reservoir, ~~[treatment facility, transmission facility,]~~ or other method of recharge project and associated facilities, structures, or works.

SECTION 2. Subsections (a), (c), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the hydro-geologic connection and interaction between surface and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) ~~[(6)]~~ protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) ~~[(7)]~~ provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~[(d)]~~ (f) ~~[(f)]~~ and (h) of this section ~~[and Section 1.26 of this article]~~ for the period beginning January 1, 2005 ~~[2008]~~, the amount of permitted withdrawals from the aquifer may not exceed the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005 ~~[400,000 acre-feet of water for each calendar year]~~.

(f) If the level of the aquifer is equal to or greater than 665 ~~[650]~~ feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterrupted basis, of permitted amounts. If the level of the

1 aquifer is equal to or greater than 845 feet at Well J-27, the  
2 authority may authorize withdrawal from the Uvalde pool, on an  
3 uninterrupted basis, of permitted amounts. In accordance with  
4 Section 1.26 of this article, the [The] authority shall limit the  
5 additional withdrawals to ensure that springflows are not affected  
6 during critical drought conditions.

7 (h) To accomplish the purposes of this article, [~~by June 1,~~  
8 ~~1994,~~] the authority, through a program, shall implement and  
9 enforce water management practices, procedures, and methods to  
10 ensure that, not later than December 31, 2012, the continuous  
11 minimum springflows of the Comal Springs and the San Marcos Springs  
12 are maintained to protect endangered and threatened species to the  
13 extent required by federal law and to achieve other purposes  
14 provided by Subsection (a) of this section and Section 1.26 of this  
15 article. The authority from time to time as appropriate may revise  
16 the practices, procedures, and methods. To meet this requirement,  
17 the authority shall require:

18 (1) phased reductions in the amount of water that may  
19 be used or withdrawn by existing users or categories of other users,  
20 including the authority's critical period management plan  
21 established under Section 1.26 of this article; or

22 (2) implementation of alternative management  
23 practices, procedures, and methods.

24 SECTION 3. Subsection (c), Section 1.15, Chapter 626, Acts  
25 of the 73rd Legislature, Regular Session, 1993, is amended to read  
26 as follows:

27 (c) The authority may issue regular permits, term permits,



1 and emergency permits. Except as provided in Section 1.14(f) and  
2 Section 1.26 of this article, regular permits may not be issued on  
3 an interruptible basis, and the total withdrawals authorized by all  
4 regular permits issued by the authority may not exceed the  
5 limitations provided by Section 1.14 of this article.

6 SECTION 4. Subsection (b), Section 1.19, Chapter 626, Acts  
7 of the 73rd Legislature, Regular Session, 1993, is amended to read  
8 as follows:

9 (b) Withdrawal of water under a term permit must be  
10 consistent with the authority's critical period management plan  
11 established under Section 1.26 of this article. A holder of a term  
12 permit may not withdraw water from the San Antonio pool of the  
13 aquifer unless the level of the aquifer is higher than 675 ~~[665]~~  
14 feet above sea level, as measured at Well J-17, and the flow at  
15 Comal Springs as determined by Section 1.26(c) of this article is  
16 greater than 350 cfs.

17 SECTION 5. Article 1, Chapter 626, Acts of the 73rd  
18 Legislature, Regular Session, 1993, is amended by amending Section  
19 1.26 and adding Section 1.26A to read as follows:

20 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After  
21 review of the recommendations received, as prescribed in Section  
22 1.26A of this article, the ~~[The]~~ authority shall prepare and  
23 coordinate implementation of a ~~[plan for]~~ critical period  
24 management plan in a manner consistent with Section 1.14(a) of this  
25 article ~~[on or before September 1, 1995]~~. The mechanisms must:

26 (1) distinguish between discretionary use and  
27 nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; and

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

- (A) municipal, domestic, and livestock;
- (B) industrial and crop irrigation;
- (C) residential landscape irrigation;
- (D) recreational and pleasure; and
- (E) other uses that are authorized by law.

(b) In this section, "MSL" means the elevation, measured in feet, of the surface of the water in a well above mean sea level, and "CFS" means cubic feet per second. Not later than January 1, 2006, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE SAN ANTONIO POOL

<u>INDEX WELL J-17</u>	<u>COMAL SPRINGS</u>	<u>CRITICAL</u>	<u>WITHDRAWAL REDUCTION</u>
<u>LEVEL MSL</u>	<u>FLOW CFS</u>	<u>PERIOD STAGE</u>	<u>PERCENTAGE</u>

1	<u>&lt;665</u>	<u>N/A</u>	<u>I</u>	<u>10%</u>
2	<u>&lt;650</u>	<u>N/A</u>	<u>II</u>	<u>10%</u>
3	<u>&lt;640</u>	<u>&lt;150</u>	<u>III</u>	<u>10%</u>
4	<u>&lt;630</u>	<u>&lt;100</u>	<u>IV</u>	<u>10%</u>

5     TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

6                             FOR THE UVALDE POOL

7	<u>INDEX WELL J-27 MSL FOR</u>	<u>CRITICAL PERIOD</u>	<u>WITHDRAWAL REDUCTION</u>
8	<u>UVALDE POOL</u>	<u>STAGE</u>	<u>PERCENTAGE</u>
9	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
10	<u>N/A</u>	<u>II</u>	<u>N/A</u>
11	<u>&lt;845</u>	<u>III</u>	<u>15%</u>
12	<u>&lt;842</u>	<u>IV</u>	<u>15%</u>

13         (c) The authority shall continuously track the average  
14     daily discharge rate measured over each period of five consecutive  
15     days at Comal Springs to determine whether a reduction in  
16     withdrawals to the Stage III reduction level is required. The  
17     authority shall track the average daily discharge rate measured for  
18     any five days in a period of 10 consecutive days to determine  
19     whether a reduction in withdrawals to the Stage IV reduction level  
20     is required.

21         (d) Beginning November 1, 2005, the authority shall reduce  
22     the volume of permitted withdrawals to an annualized rate of  
23     340,000 acre-feet, under critical period Stage IV. After January  
24     1, 2012, the authority shall reduce the volume of permitted  
25     withdrawals to 320,000 acre-feet, under critical period Stage IV.

26         (e) After January 1, 2020, the authority, after review and  
27     consideration of recommendations received by the authority under

1 Section 1.26A of this article, shall adjust the volume of permitted  
2 withdrawals to an appropriate annualized rate under critical period  
3 Stage IV that is consistent with maintaining the protections  
4 contained in Section 1.14(a) of this article.

5 (f) From time to time, the authority by rule may amend the  
6 withdrawal reduction criteria of the authority's critical period  
7 management plan as set forth in Subsections (b), (c), and (e) of  
8 this section, after review and consideration of the recommendations  
9 from the Environmental Flows Commission, or the Texas Water  
10 Development Board if the Environmental Flows Commission is not  
11 established, the Edwards Aquifer area expert science team, and the  
12 Edwards Aquifer Area Stakeholders Committee, as prescribed in  
13 Section 1.26A of this article. The amended plan must be consistent  
14 with Section 1.14(a) of this article.

15 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND  
16 STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental  
17 Flows Commission, as established under Section 11.0236, Water Code,  
18 or the Texas Water Development Board if the Environmental Flows  
19 Commission is not established, shall appoint a 15-member Edwards  
20 Aquifer Area Stakeholders Committee not later than January 1, 2006.  
21 The composition of the committee will be as follows:

22 (1) five holders of municipal permits issued by the  
23 authority;

24 (2) two holders of irrigation permits issued by the  
25 authority;

26 (3) three holders of industrial permits issued by the  
27 authority;

1           (4) two downstream water rights holders in the  
2 Guadalupe River basin;

3           (5) two downstream water rights holders in the Nueces  
4 River basin; and

5           (6) one representative of a public interest group  
6 related to instream flows in the Guadalupe River basin and bay and  
7 estuary inflows from the Guadalupe River.

8           (b) The Edwards Aquifer Area Stakeholders Committee shall  
9 appoint a seven-member Edwards Aquifer area expert science team not  
10 later than April 30, 2006. The expert science team must be composed  
11 of technical experts with special expertise regarding the Edwards  
12 Aquifer system, springflows, or the development of withdrawal  
13 limitations. Chapter 2110, Government Code, does not apply to the  
14 size, composition, or duration of the expert science team. A member  
15 of the Texas Environmental Flows Science Advisory Committee, or a  
16 designee of the Texas Water Development Board if the Texas  
17 Environmental Flows Science Advisory Committee is not established  
18 in Section 11.02361, Water Code, shall serve as liaison to the  
19 Edwards Aquifer area expert science team.

20           (c) The expert science team shall develop an analysis of  
21 spring discharge rates and aquifer levels as a function of  
22 withdrawal levels. Based upon this analysis and the required  
23 elements to be considered by the authority in Section 1.14 of this  
24 article, the Edwards Aquifer area expert science team shall,  
25 through a collaborative process designed to achieve consensus,  
26 create recommendations for withdrawal reduction levels and stages  
27 for critical period management including, if appropriate,

1 establishing separate and different withdrawal reduction levels  
2 and stages for critical period management rules for different pools  
3 of the aquifer and submit them to the Edwards Aquifer Area  
4 Stakeholders Committee, the Environmental Flows Commission or the  
5 Texas Water Development Board if the Environmental Flows Commission  
6 is not established, and the authority. The initial recommendations  
7 must be completed and submitted no later than September 30, 2006.

8 (d) In developing its recommendations, the Edwards Aquifer  
9 area expert science team must consider all reasonably available  
10 science, including any Edwards Aquifer specific studies, and the  
11 recommendations must be based solely on the best science available.  
12 The Edwards Aquifer Area Stakeholders Committee may not change the  
13 recommendations of the Edwards Aquifer area expert science team  
14 regarding the withdrawal limitations appropriate to achieve the  
15 purposes of Section 1.14 of this article.

16 (e) The Edwards Aquifer Area Stakeholders Committee shall  
17 review the withdrawal limitation and critical period management  
18 recommendations submitted by the expert science team and shall  
19 consider them in conjunction with other factors, including the  
20 present and future needs for water for other uses related to water  
21 supply planning in the Edwards Aquifer area and the required  
22 elements to be considered by the authority in Section 1.14 of this  
23 article. The stakeholders committee shall develop recommendations  
24 regarding a critical period management plan and submit its  
25 recommendations to the authority and to the Environmental Flows  
26 Commission or the Texas Water Development Board if the  
27 Environmental Flows Commission is not established. In developing

1 its recommendations, the stakeholders committee shall operate on a  
2 consensus basis to the maximum extent possible. The initial  
3 recommendations must be completed and submitted no later than  
4 October 31, 2006.

5 (f) The Environmental Flows Commission or the Texas Water  
6 Development Board if the Environmental Flows Commission is not  
7 established shall submit to the authority its comments on and  
8 recommendations regarding the Edwards Aquifer area expert science  
9 team's recommended withdrawal reduction levels and stages for  
10 critical period management needed to maintain target spring  
11 discharge and aquifer levels. The withdrawal reduction  
12 recommendations shall be based upon a combination of spring  
13 discharge rates of the San Marcos and Comal Springs and levels at  
14 the J-17 and J-27 wells.

15 (g) The Edwards Aquifer area expert science team, the  
16 Edwards Aquifer Area Stakeholders Committee, and the Environmental  
17 Flows Commission or the Texas Water Development Board if the  
18 Environmental Flows Commission is not established shall submit  
19 recommendations to the authority for use in developing its rules  
20 relative to establishing the critical period management plan.

21 (h) Where reasonably practicable, meetings of the Edwards  
22 Aquifer area expert science team and Edwards Aquifer Area  
23 Stakeholders Committee must be open to the public.

24 (i) In recognition of the importance of critical period  
25 management to adapt to changed conditions or information, after  
26 submitting its recommendations regarding withdrawal limitations  
27 and strategies to meet the springflow needs to the authority, the

1 stakeholders committee, with the assistance of the expert science  
2 team, shall prepare and submit to the Environmental Flows  
3 Commission or the Texas Water Development Board if the  
4 Environmental Flows Commission is not established a work plan. The  
5 work plan must:

6 (1) establish a periodic review of the critical period  
7 management plan, to occur at least once every five years;

8 (2) prescribe specific monitoring, studies, and  
9 activities; and

10 (3) establish a schedule for continuing the validation  
11 or refinement of the critical period management plan adopted by the  
12 authority, and the strategies to achieve the plan.

13 (j) To assist the Environmental Flows Commission or the  
14 Texas Water Development Board if the Environmental Flows Commission  
15 is not established to assess the extent to which the  
16 recommendations of the Edwards Aquifer area expert science team are  
17 considered and implemented, the authority shall provide written  
18 reports to the Environmental Flows Commission or the Texas Water  
19 Development Board if the Environmental Flows Commission is not  
20 established, at intervals determined by the Environmental Flows  
21 Commission or the Texas Water Development Board if the  
22 Environmental Flows Commission is not established, that describe:

23 (1) the actions taken in response to each  
24 recommendation; and

25 (2) for each recommendation not implemented, the  
26 reason it was not implemented.

27 SECTION 6. Subsections (b) and (i), Section 1.29, Chapter



626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [52], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(i) The authority shall provide money as necessary, but not to exceed \$75,000, annually adjusted for changes in the consumer price index [~~five percent of the money collected under Subsection (d) of this section~~], to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION 7. Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.29A to read as follows:

Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE. (a) The authority shall appoint a budgetary advisory committee no later than November 30, 2005, to consult and advise the authority on the following prior to its submission to the board:

1           (1) the issuance of bonds;

2           (2) the authority's annual budget; and

3           (3) the authority's annual audit.

4           (b) Each voting member of the board shall appoint one member  
5 of the budgetary advisory committee.

6           SECTION 8. Subsection (a), Section 1.45, Chapter 626, Acts  
7 of the 73rd Legislature, Regular Session, 1993, is amended to read  
8 as follows:

9           (a) The authority may own, finance, design, construct,  
10 [build or] operate, and maintain recharge dams and associated  
11 facilities, structures, or works in the contributing or recharge  
12 area of the aquifer if the recharge is made to increase the yield of  
13 the aquifer and the recharge project does not impair senior water  
14 rights or vested riparian rights.

15           SECTION 9. The following sections of Chapter 626, Acts of  
16 the 73rd Legislature, Regular Session, 1993, are repealed:

17           (1) Subsections (b) and (d), Section 1.14;

18           (2) Section 1.18;

19           (3) Section 1.21; and

20           (4) Subsections (a), (c), (d), and (h), Section 1.29.

21           SECTION 10. This Act takes effect November 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

7/6/05  
(date)

Sir:  
We, your COMMITTEE ON NATURAL RESOURCES  
to whom was referred HB 41 have had the same under consideration and beg to report  
back with the recommendation that it

- ( ) do pass, without amendment.
- ( ) do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (X) yes ( ) no A fiscal note was requested.
- ( ) yes (X) no A criminal justice policy impact statement was requested.
- ( ) yes (X) no An equalized educational funding impact statement was requested.
- ( ) yes (X) no An actuarial analysis was requested.
- ( ) yes (X) no A water development policy impact statement was requested.
- ( ) yes (X) no A tax equity note was requested.
- ( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair	X			
Bonnen	X			
Campbell	X			
Geren	X			
Hardcastle	X			
Hilderbran	X			
Hope				X
Laney				X

Total      7 aye  
              0 nay  
              0 present, not voting  
              2 absent

A. H. H. H.  
CHAIR

## **BILL ANALYSIS**

C.S.H.B. 41  
By: Puente  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

C.S.H.B. 41 provides that Edwards Aquifer Authority (EAA) own, finance, and maintain recharge facilities. The bill also provides that the amount of permitted withdrawals from the Edwards Aquifer may not exceed the sum of all regular permits issued. In addition, C.S.H.B. 41 requires the EAA to reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period stage IV. After January 1, 2012, the EAA will be required to reduce the volume of permitted withdrawals to 320,000 acre-feet under critical period IV. C.S.H.B. 41 authorizes an EAA stakeholders committee to appoint a seven-member expert science team to assist with providing technical expertise regarding the Edwards Aquifer system, spring flows, or the development of withdrawal limitations.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(f) Authorizes the Edwards Aquifer Authority (authority) to own, finance, design, construct, operate, or maintain recharge facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. Redefines "recharge facility" for the purpose of this subsection. Deletes existing text prohibiting fees from being used for purchasing or operating facilities.

SECTION 2. Amends Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, by amending Subsections (a), (c), (f), and (h), as follows:

(a) Requires authorizations to withdraw water from Edwards Aquifer (aquifer) and all authorizations and rights to make a withdrawal under this Act to be limited in accordance with this section to recognize the hydro-geologic connection and interaction between surface and groundwater.

(c) Prohibits the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section, for the period beginning January 1, 2005, rather than 2008, from exceeding the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005. Deletes text providing exceptions provided by Subsection (d) and Section 1.26 of this article. Deletes text prohibiting the permitted amount of withdrawals from the aquifer from exceeding 400,000 acre-feet for each calendar year.

(f) Authorizes the authority, if the level of the aquifer is equal to or greater than 665, rather than 650, feet above mean sea level as measured at well J-17, to authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. Requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Authorizes the authority, to accomplish the purposes of this article, through a program, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. Authorizes the authority from time to time as appropriate to revise the practices, procedures, and methods. Requires the authority, to meet this requirement, to require phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users or implementation of alternative management practices, procedures, and methods, including the authority's critical period management plan established under Section 1.26 of this article or implementation of alternative management practices, procedures, and methods.

**SECTION 3.** Amends Section 1.15(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to prohibit regular permits, except as provided in Section 1.14(f) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total authorized withdrawals authorized by all regular permits issued by the authority from exceeding the limitation provided by Section 1.14 of this article.

**SECTION 4.** Amends Section 1.19(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Requires the withdrawal of water under a term permit to be consistent with the authority's critical period management plan established under Section 1.26 of this article. Prohibits a holder of a term permit from withdrawing from the San Antonio pool of the aquifer unless the level of the aquifer is higher than 675, rather 665, feet above sea level, as measured at Well J-17, and the flow at Comal Springs as determined by Section 1.26(c) is greater than 350 cfs.

**SECTION 5.** Amends Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Section 1.26 and adding Sections 1.26A, as follows:

**Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN.** (a) Requires the authority, after review of the recommendations received, as prescribed in Section 1.26A of this article, to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(a). Deletes existing text regarding a deadline.

(b) Defines "MSL" and "CFS." Requires the authority, not later than January 1, 2006, by rule, to adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2.

(c) Requires the authority to continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. Requires the authority to track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Requires the authority, beginning November 1, 2005, to reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period Stage IV. Requires the authority, after January 1, 2012, to reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period IV.

(e) Requires the authority, after January 1, 2020, and after review and consideration of recommendations received by the authority under Section 1.26A of this article, to adjust the volume of permitted withdrawals to an appropriate

annualized rate under critical period Stage IV that is consistent with maintaining the protections contained in Section 1.14(a) of this article.

(f) Authorizes the authority, from time to time, by rule, to amend the withdrawal reduction criteria of the critical period management plan as set forth in Subsections (b), (c) and (e), after review and consideration of the recommendations from the Environmental Flows Commission, or the Texas Water Development Board (board) if the Environmental Flows Commission is not established, the Edwards Aquifer area expert science team, and the Edwards Aquifer Area Stakeholders Committee, as prescribed in Section 1.26A of this article. Requires the amended plan to be consistent with Section 1.14(a) of this article.

**Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT.** (a) Requires the Environmental Flows Commission, as established under Section 11.0236, Water Code, or the board if the Environmental Flows Commission is not established, to appoint a 15-member Edwards Aquifer Area Stakeholders Committee (stakeholders committee) not later than January 1, 2006. Sets forth the composition of the committee.

(b) Requires the stakeholders committee to appoint a seven-member Edwards area expert science team (expert science team) not later than April 30, 2006. Requires the expert science team to be composed of technical members with certain special expertise. Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science team. Requires a member of Texas Environmental Flows science advisory committee, or a designee of the board if the Environmental Flows science advisory committee is not established in Section 11.02361, Water Code, to serve as liaison to the expert science team.

(c) Requires the expert science team to develop an analysis of spring discharge rates and aquifer levels as a function of withdrawal levels. Requires the expert science team, based upon this analysis and the required elements to be considered by the authority in Section 1.14 of this article, through a collaborative process designed to achieve consensus, to create recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and different withdrawal reduction levels and stages for critical period management rules for different pools of the aquifer and submit them to the stakeholders committee, the flows commission, and the authority. Requires the initial recommendations to be completed and submitted no later than September 30, 2006.

(d) Requires the expert science team, in developing its recommendations, to consider all reasonably available science, including any Edwards Aquifer specific studies, and to be based solely on the best science available. Prohibits the stakeholders committee from changing the recommendations of the expert science team regarding the withdrawal limitations appropriate to achieve the purposes of Section 1.14 of this article.

(e) Requires the stakeholders committee to review the withdrawal limitation and critical period management submitted by the expert science team and to consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the Edwards Aquifer area and the required elements to be considered by the authority in Section 1.14 of this article. Requires the stakeholders committee to develop recommendations regarding a critical period management plan and submit its recommendations to the authority and the Environmental Flows Commission or the board if the Environmental Flows Commission is not established. Requires the stakeholders committee, in developing its recommendations, to operate on a consensus basis to the maximum extent possible. Requires the initial recommendations to be completed and submitted no later than October 31, 2006.

(f) Requires the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to submit to the authority its comments on and recommendations regarding the expert science team's recommended withdrawal reduction levels and stages for critical management needed to maintain target spring discharge and aquifer levels. Requires the withdrawal reduction recommendations to be based upon a combination of spring discharge rates of the San Marcos and Comal Springs and levels at J-17 and J-27 wells.

(g) Requires the expert science team, stakeholder committee, and the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to submit recommendations to the authority for use in developing its rules relative to establishing the critical period management plan.

(h) Requires the meetings of the expert science team and stakeholders committee, where reasonably practicable, to be open to the public.

(i) Requires the stakeholders committee, with the assistance of the expert science team, in recognition of the importance of critical period management to adapt to changed conditions or information, after submitting its recommendations regarding withdrawal limitations and strategies to meet the spring flow needs to the authority, to prepare and submit a specific work plan to the Environmental Flows Commission or the board if the Environmental Flows Commission is not established. Sets forth the requirements of the work plan.

(j) Requires the authority, to assist the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to assess the extent to which the recommendations of the expert science team are considered and implemented, to provide specific written reports to the Environmental Flows Commission or the board if the Environmental Flows Commission is not established, at intervals determined by the Environmental Flows Commission or the Texas Water Development Board if the flows commission is not established.

**SECTION 6.** Amends Sections 1.29(b) and (i), Section 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Authorizes each water district governed by Chapter 36, rather than 52, Water Code, that is within the authority's boundaries to contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district.

(i) Requires the authority to provide money as necessary, but not to exceed \$75,000, annually adjusted for changes in the consumer price index, rather than five percent of the money collected under Subsection (d), to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

**SECTION 7.** Amends Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 1.29A, as follows:

**Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE.** (a) Requires the authority to appoint a budgetary advisory committee no later than November 30, 2005, to consult and advise the authority on certain budget issues prior to its submission to the board.

(b) Requires each voting member of the board to appoint one member of the budgetary advisory committee.

**SECTION 8.** Amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes.

SECTION 9. Repealer: (1) Sections 1.14 (b) (relating to the amount of permitted withdrawals from the aquifer), and (d) (relating to authorizing the authority to increase the maximum amount of withdrawals), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(2) Section 1.18 (Additional Regular Permits), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(3) Section 1.21 (Permit Requirement), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(4) Sections 1.29 (a) (relating to requiring the cost of reducing withdrawals or permit retirements), (c) (relating to authorizing the authority to assess an equitable special fee), (d) (relating to requiring the commission to assess equitable special fees), and (h) (relating to prohibiting the use of special fees) Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 10. Effective date: November 1, 2005.

#### **EFFECTIVE DATE**

November 1, 2005.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

In SECTION 5 of C.S.H.B. 41, Section 1.26(d), the authority is required to reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period Stage IV, beginning November 1, 2005. The bill, as filed, required the reduction as of September 1, 2005. The change is made to accommodate the Act's effective date of November 1, 2005.

In SECTION 5 of C.S.H.B. 41, Section 1.26A(a), the composition of the Edwards Aquifer Area Stakeholders Committee includes two downstream water rights holders in the Guadalupe River basin and two downstream water rights holders in the Nueces River basin. The bill, as filed, provided for membership of four downstream water rights holders in the Guadalupe River basin.

In SECTION 5 of C.S.H.B. 41, Section 1.26A(b), a reference made to the Environmental Flows Commission is changed to more accurately reflect the Environmental Flows science advisory committee appointed by the Environmental Flows Commission.



## SUMMARY OF COMMITTEE ACTION

HB 41

July 6, 2005

upon final adjourn./recess

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Considered in formal meeting

Committee substitute considered in committee

Amendment(s) considered in committee

Reported favorably as substituted

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005**

**July 11, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB41** by Puente (Relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority. ), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would modify withdrawal limits from the Edwards Aquifer and establish pumping reduction levels and stages for critical period management. The bill would create additional administrative responsibilities for the Edwards Aquifer Authority (EAA) and the Texas Water Development Board (TWDB). The bill would take effect November 1, 2005.

TWDB reports that any new administrative responsibilities could be absorbed using existing resources.

**Local Government Impact**

It is anticipated that the EAA could absorb additional administrative responsibilities within existing resources. Because provisions of the bill could raise overall annual withdrawal rates from the Edwards Aquifer, local governments depending on water from that source could benefit from greater water availability. However, because of the bill's provisions relating to critical period management plans, local governments also could be forced to find more expensive sources of water. Any costs would depend on the levels of rainfall and the aquifer.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, CL, DLBa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005**

**July 5, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB41** by Puente (Relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would modify withdrawal limits from the Edwards Aquifer and establish pumping reduction levels and stages for critical period management. The bill would create additional administrative responsibilities for the Edwards Aquifer Authority (EAA) and the Texas Water Development Board (TWDB). The bill would take effect November 1, 2005.

TWDB reports that any new administrative responsibilities could be absorbed using existing resources.

**Local Government Impact**

It is anticipated that the EAA could absorb additional administrative responsibilities within existing resources. Because provisions of the bill could raise overall annual withdrawal rates from the Edwards Aquifer, local governments depending on water from that source could benefit from greater water availability. However, because of the bill's provisions relating to critical period management plans, local governments also could be forced to find more expensive sources of water. Any costs would depend on the levels of rainfall and the aquifer.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, CL, DLBa

H.B. No. 41

By Puente

A BILL TO BE ENTITLED  
AN ACT

relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operation and oversight of the Edwards Aquifer Authority.

JUN 23 2005 Filed with the Chief Clerk

JUN 27 2005 Read first time and referred to Committee on Natural Resources

JUL 06 2005 Reported favorably (as substituted)

JUL 13 2005 Sent to Committee on (Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on \_\_\_\_\_

Reported favorably \_\_\_\_\_

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent) (\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Read second time, \_\_\_\_\_, and passed to third reading by (unanimous consent) (a viva voce vote) (\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

Read third time, \_\_\_\_\_, and passed by a (viva voce vote) (\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

\_\_\_\_\_ Returned from the Senate (as substituted)  
(with amendments)

\_\_\_\_\_ House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

05 JUL 12 PM 6:36

HOUSE OF REPRESENTATIVES